

DATE
APPROVED:

CONSERVATION COMMISSION MINUTES FOR DECEMBER 18, 2012 PAGE #12-92

MEMBERS PRESENT:

Chairman Ed Schwarz, Vice-Chairman Tom Failla, Chris Spaulding, Cathy Minter and Michael Zegers

Meeting on digital recording dated 12/18/12

Mr. Schwarz opened the December 18th Regular meeting of the Weston Conservation Commission at 7:30 p.m.

RECEIPT OF APPLICATIONS

- Hahn, 24 Partridge Lane, house addition, drainage improvements (LandTech)
- Martino, 12 Godfrey Road W, septic repair (Sutherland Excavating)

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the Hahn, 24 Partridge Lane application and Mr. Failla seconded. All in favor, the motion carried (5-0).

MOTION FOR RECEIPT

Mr. Failla made a motion to receive the application of Martino, 12 Godfrey Road W. and Mr. Schwarz seconded. All in favor, the motion carried (5-0).

DISCUSSION OF APPLICATION: R. NIMKOFF, 50 FERN VALLEY ROAD, PROPOSED POOL

Alan Broadbent, came forward to present the application. The Commissioners reviewed the plans and Mr. Schwarz questioned what they planned to do to ensure that no debris gets into the river during construction. Mr. Broadbent explained that they will be using a double silt fence with hay bales in the middle. They will be installed before the project starts and maintained until the site is stabilized. He also noted that they will be planting pachysandra on steep slopes to prevent erosion. Mr. Broadbent explained that although the pool is outside the 100 foot regulated zone, the surrounding construction will be within. Removed soil will be hauled off-site with a smaller dump truck and they will only be retaining a small amount for backfill and native topsoil to be re-spread. Mr. Spaulding questioned whether there would be any blasting involved and Mr. Broadbent stated that they won't know until they start excavating. Mr. Schwarz stated that if they need to do any blasting, they will need to go to the Town Engineer and possibly the Fire Marshal. Discussion on construction of the pool and temporary road ensued.

MOTION FOR APPROVAL

Mr. Schwarz made a motion to approve the application for Nimkoff, 50 Fern Valley Road for a pool as shown on aplan prepared by The Laurelrock Company, dated 11/15/12, subject to the following conditions:

A. Filing of the contractor's statement.

B. Implementation of the erosion and sedimentation control plan prior to any site preparation activity. The plan must meet minimum standards as set forth in Public Act. No. 83-388 (An Act Concerning Soil Erosion & Sediment Control) Effective July 1, 1985.

C. The following language shall appear on the subdivision or deeds to lots which are to be filed on the Weston Land Records:

“No regulated activity as defined in the Public Inland Wetland Watercourse Act of the State of Connecticut Regulations as well as the Town of Weston's Regulations as the same and from time to time as may be amended, shall be permitted in those areas designated and shown as wetlands on the aforementioned maps.” The wetland areas as well as any agreed to “buffer zones” designated on the aforementioned maps shall be established as areas whose natural and indigenous character shall be henceforth preserved and not encroached upon for any use that would alter the natural character of the land”.

D. Upon completion of the work, the developer will submit a certified report from a qualified professional engineer that the property was developed and the work completed as planned.

E. All applicable conditions of the Conservation Commission shall be recorded on the maps or linens of the Weston Land Records which are filed with the Town Clerk.

F. The Conservation Commission reviewed the alternatives to the approved action including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application.

G. Per Public Act 93-305, effective 10/1/93, “Any permit issued under this section shall be valid for five years. Any regulated activity approved by the agency shall be completed within one year from the time such activity is commenced provided the agency may establish a specific time period within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the agency extend (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section.”

H. Any changes in approved plans shall require notification to the Commission and may require that a new application be made.

I. Applicant agrees, represents and warrants that it will obtain all required federal, state and local permits prior to commencing any work on the site.

J. The limit of disturbance line is indicated on the plan as the silt fence line.

K. If any blasting is to be done or any changes to the current plan, the applicant will return to the Commission for review.

Mr. Spaulding seconded the motion. All in favor, the motion carried (5-0).

DISCUSSION: REQUEST FOR BOND REDUCTION: BRANDSTROM, 26 NORFIELD ROAD

No one was present for the discussion. Continued to January meeting.

DISCUSSION: NOTICE OF VIOLATION: COBB'S MILL INN, 12 OLD MILL ROAD – BRIDGE, PATHS & ELECTRICAL CONDUITS

Drew Friedman, owner, came forward to discuss the Notice of Violation. Mr. Schwarz noted that there is a substantial structure bridge, pathways and electrical conduits on the other side of the river and all that work was undertaken without approval by the Conservation Commission.

Mr. Friedman explained that after a conversation with acting Conservation Planner, David Pattee, he was under the impression that he could build a temporary bridge to be used for the removal of debris across the river. He stated that it was temporary and not what he wanted as a permanent bridge, but it needed to be safe enough for bringing debris across the river. The pathways were also created to aid in the removal of debris. Discussion ensued.

Mr. Schwarz explained to Mr. Friedman that he needs to remove the temporary bridge and stone dust and then apply to the Conservation Commission for a permanent bridge if that is what is wanted. He also stated that the plan needs to be submitted to the Conservation Planner no later than January 8, 2013.

Mr. Failla stated that the temporary bridge work needs to be stabilized and done with the assistance of the Conservation Planner and reviewed by the Commission. There needs to be a plan submitted on how to remediate the temporary bridge and path work and then the Commission needs to look at all reasonable alternatives. Discussion continued.

MOTION

Mr. Schwarz made a motion to resolve the Notice of Violation by instructing the owner to submit by January 10, 2013, a remediation plan stating specifically the manner and construction sequencing on how to remove the temporary bridge, stone pathways and conduits. The concern is that the waterway not be adversely affected by the removal of these items. If for any reason the owner does not submit a good faith remediation plan by January 10, 2013 then a fine of \$1,000/day is to be imposed beginning on January 11, 2013, and every day thereafter that a plan is not submitted. No activity is to be taken in the regulated area unless permission has been

granted by the Conservation Commission. Mr. Failla seconded the motion. All in favor, the motion carried (5-0).

Todd Bucarl, town resident and employee of the Cobb's Mill Inn noted that the conduit was previously installed by George Guidera, and there continues to be a lot of run off from the street and Revson field into the river.

The following language, provided by Mr. Schwarz was added by Motion of Mr. Failla at the January 17, 2013 Regular Conservation Commission Meeting:

Whereas, a Notice of Violation was issued on December 13, 2012 against the property located at 12 Old Mill road (the Property) for the construction of a bridge across the Saugatuck River, for the creation of stone dust paths and for the installation of electrical conduits all of which allegedly violated Weston's Inland Wetlands and Watercourses Regulations (Regulations), as more fully described in said Notice of Violation, properly served upon the property owner, Drew Friedman (or Property Owner)

Whereas, the Conservation Commission of the town of Weston (Commission) held a hearing on said violations on December 18, 2012 and at said hearing the owner of the property, Drew Freidman appeared before the Commission and testified and in addition submitted a written statement to the Commission dated December 12, 2012, photographs taken by the Commission at it site walk were submitted and examined, Todd Bucarl, a Weston resident and employee of the owner of the property testified, and the memorandum of the Conservation Planner, David Pattee, dated December 18, 2012 submitted and examined,

Whereas, based on all the evidence presented, the testimony of the witnesses , the documentary evidence presented and the demeanor of the witnesses, the Commission unanimously found that the activities set forth in the Notice of violation were "Regulated Activities" as described in Section 2.1 of the Regulations and required pursuant to Section 6.1 of the Regulations a permit from the Commission prior to conducting said Regulated Activities, and that the owner of the property, Drew Friedman admittedly never applied for or obtained the necessary permit from the Commission before starting and completing the activities described in the Notice of Violation,

Therefore, the Commission passed the following motion unanimously by a 5 to 0 vote:

The Commission finds based on all the evidence presented that the Property Owner breached the Regulations set forth in the Notice of Violation and that these breaches were intentional, willful and deliberate. The Commission further finds the explanation given by the Property Owner in his testimony and written statement to be incredulous and the written statement of David Pattee to be truthful and credible. The photographs further support the Commission's findings. The Property Owner must therefore submit a remediation plan to the Commission no later than January 10, 2013 and that said remediation plan must comply with the Commission's rules and regulations for such plans and specifically set forth the manner, construction sequence and environmental safeguards to be utilized in the complete removal of the temporary ,wooden bridge over the Saugatuck river, the complete removal of the temporary stone dust paths, the complete removal

of the electrical conduits and the complete restoration of the Property to its original state. If for any reason or for no reason at all, said remediation plan is not filed with the Commission by January 10, 2013, then beginning on January 11, 2013, a fine of \$1,000 (one thousand dollars) shall be assessed and for each day thereafter until said remediation plan is filed with the Commission. In addition, the Property Owner shall immediately clean up and remove all the debris deposited on the side of the river near Cobbs Mill and properly cover the pile of stone dust located near the debris, making sure adequate precautions are taken so as not to adversely affect the regulated area and/or the waterways. Other than the cleaning of debris and the covering of the stone dust described above, the Property Owner shall not do, undertake or preform any activity of any nature within the regulated area without the written approval of the Commission. Finally, the Commission asked and the Property Owner agreed that he would discuss with his attorney the legal meaning and significance of a “deliberate, intentional and willful” violation of the Commission’s rules and regulations.

DISCUSSION: EMERGENCY SEPTIC REPAIR, MARTINO 12 GODFREY ROAD W., (SUTHERLAND EXCAVATING)

Ken Martino, owner and Jim Weysite from Sutherland Excavating came forward to discuss the emergency basis for the septic repair. Mr. Martino explained that they had their septic system tested because it was not working properly. The existing leaching fields are 75% saturated and they have been told by Jeff Andrews from the Westport/Weston Health District that they have to add to the leaching field. They have done a B100A and designed new leaching fields. Mr. Martino noted that the new fields are farther away from the wetlands. Mr. Failla commented that he believes that they should move forward on this application on an emergency basis.

MOTION FOR APPROVAL

Mr. Schwarz made a motion to approve, on an emergency bases, the septic repair for Martino, 12 Godfrey Road West as shown on plans prepared by Sutherland Excavating, and dated 11/21/12, subject to the following conditions:

A. Filing of the contractor’s statement.

B. Implementation of the erosion and sedimentation control plan prior to any site preparation activity. The plan must meet minimum standards as set forth in Public Act. No. 83-388 (An Act Concerning Soil Erosion & Sediment Control) Effective July 1, 1985.

C. The following language shall appear on the subdivision or deeds to lots which are to be filed on the Weston Land Records:

“No regulated activity as defined in the Public Inland Wetland Watercourse Act of the State of Connecticut Regulations as well as the Town of Weston’s Regulations as the same and from time to time as may be amended, shall be permitted in those areas designated and shown as wetlands on the aforementioned maps.” The wetland areas as well as any agreed to “buffer zones” designated on the aforementioned maps shall be established as areas whose

natural and indigenous character shall be henceforth preserved and not encroached upon for any use that would alter the natural character of the land”.

D. Upon completion of the work, the developer will submit a certified report from a qualified professional engineer that the property was developed and the work completed as planned.

E. All applicable conditions of the Conservation Commission shall be recorded on the maps or linens of the Weston Land Records which are filed with the Town Clerk.

F. The Conservation Commission reviewed the alternatives to the approved action including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application.

G. Per Public Act 93-305, effective 10/1/93, “Any permit issued under this section shall be valid for five years. Any regulated activity approved by the agency shall be completed within one year from the time such activity is commenced provided the agency may establish a specific time period within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the agency extend (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section.”

H. Any changes in approved plans shall require notification to the Commission and may require that a new application be made.

I. Applicant agrees, represents and warrants that it will obtain all required federal, state and local permits prior to commencing any work on the site.

Ms. Minter seconded the motion. All in favor, the motion carried (5-0).

APPROVAL OF MINUTES

Mr. Schwarz made a motion to approve the Minutes from the November 20, 2012 meeting and Ms. Minter seconded the motion. All in favor, the motion carried (5-0).

MOTION TO ADJOURN

Mr. Spaulding made a motion to adjourn the meeting and Ms. Minter seconded. All in favor, the meeting adjourned at 8:44 p.m.

Respectfully submitted,

Delana Lustberg
Recording Secretary